

**Big Cypress National Preserve
ORV Advisory Committee Meeting
November 7, 2012**

Minutes

The Big Cypress National Preserve (BICY) ORV Advisory Committee (ORVAC) held their regularly scheduled meeting on November 7, 2012, at the Big Cypress Swamp Welcome Center, Ochopee, Florida. The meeting was called to order at 3:30 p.m. by Pedro Ramos, BICY Superintendent.

Committee Members Present: Franklin Adams, Laurie Macdonald, David Denham, John Adornato, Barbara Jean Powell, Brad Cornell, Jim Coletta, Jenny Richards, Karl Greer, Dennis Wilson, Jorge Gutierrez, Chuck Hampton, Win Everham, Wayne Jenkins. **Not Present:** Manley Fuller, Curt Witthoff, Robin Barnes. **BICY Staff Present:** Pedro Ramos, David Hamm, Nikita Carty, Bob DeGross, Steve Schulze, Ron Clark, Valerie Clark, Ben Zahn, Lou Fisher.

There were approximately 18 members of the public present.

The meeting was facilitated by Delia Clark.

Mr. Ramos opened the meeting by welcoming the members and public and thanking the BICY staff for putting the meeting together. After leading the Pledge of Allegiance, Mr. Ramos turned the meeting over to Ms. Clark, who went over the agenda, which included primarily discussion of secondary trails and trails in the Stairsteps Unit. Ms. Clark explained the three public comment periods, went over house rules, and noted that the meeting was being videotaped.

ORVAC Business. Mr. Adornato expressed concern over an email from the Superintendent implying that all ORVAC discussion must take place in a public meeting. He said that this is not a Federal Advisory Committee Act requirement and that ORVAC members are allowed to talk to each other outside of meetings. Mr. Ramos responded that it was okay to share information outside of meetings, but that it is important that decisions be made in public and with the benefit of the public's input.

Ms. Clark said that after checking with all the members, the best days to meet in 2013 were Wednesday, February 27; Wednesday, May 29; Wednesday, August 28; and Tuesday, November 5. The Committee approved these meeting dates.

An up-to-date Committee roster will be distributed to all members.

Mr. Adornato had previously asked if the agenda could be changed to allow the secondary trail discussion to precede the Stairsteps Unit agenda item. The Committee agreed to hear the Stairsteps Subcommittee report and public comment, but to postpone any decision or recommendation until after the secondary trail discussion.

Superintendent's Report. Mr. Ramos announced that many BICY staff had gone to the Northeast to help in storm recovery efforts. The ORV trail line item construction project will involve spot-treatment stabilization of about 60 miles of primary trails in the original Preserve. Planning, design, and construction are proceeding on several access points, as well as planning for turn lanes on U.S. 41. Work on the I-75 Mile Marker 51 access point is proceeding but is behind schedule. Mr. Ramos encouraged members to share information ahead of time to make meetings more efficient.

Mr. Adornato questioned the brightness of the lighting at the Mile Marker 51 site, and Mr. Ramos said he would look into it. Ms. Macdonald asked when the Turner River Road turn lane would be constructed; Mr. Ramos replied that the project would probably not begin in the next 24 months. Mr. Wilson asked how Mile Marker 51 would be accessed from the east, and Mr. Ramos replied that the facility was designed for access from the east only. Mr. Gutierrez noted that Mr. Adornato appeared to be in violation of Section 13 of the ORVAC charter and should be immediately removed from the Committee.

Stairsteps Trail Network. Ms. Clark referred to the subcommittee report (attached) and suggested the Committee proceed by looking at each item that had a subcommittee recommendation.

1. There needs to be connectivity between Zone 3 and Zone 4 for vehicles permitted in those units. The Committee agreed.
2. All trails should be open to whatever type of vehicle is permitted in Zone 3, with operator discretion dictating the type of vehicle. The Committee agreed.
3. Should we have wheeled ORV trails only and airboat trails only? Subcommittee recommendation: No. The Committee agreed.
4. The closed sparrow zone should be evaluated for reopening through adaptive management using all available science, including existing science and new, if needed. The Committee agreed.
5. Should we consider a distinction between primary and secondary trails in Zone 4? Subcommittee response: This is not addressed in the ORV Plan, but it would be good to do. The Committee agreed to hold off on a recommendation.
6. Through adaptive management, the Sig Walker access site should be open to wheeled vehicles and airboats. The Committee agreed after changing "Through" to "With."
7. Preferred recommendation (full consensus) for Pace's Dike destinations:
 - a) No north/south primary trail on the east side.
 - b) All east/west segments designated as primary with short secondary trails to the areas known as Doc Wolf and Green Head.
 - c) A backup subcommittee recommendation was agreed upon with minority opposition:

- 1) A 2.5-mile secondary trail swinging north through the farm field to the historical Doc Wolf site.
- 2) A one-mile primary trail from the red primary trail to the eastern airboat trail.
- 3) A 1.4-mile secondary trail from the eastern airboat trail to Green Island.

The Committee agreed to a) and b).

8. Regarding the Everglades Conservation and Sportsmen's Club's request to use the Loop Road culvert crossing to access a designated trail in order to minimize congestion at Monroe Station, the subcommittee has no objections to NPS moving forward with the club's request. The Committee agreed.

9. Relating to Zone 2 trails, after having provided desired destinations, the subcommittee recommended that BICY staff determine the shortest route that meets the agency's criteria. The Committee agreed.

Public Comment—Stairsteps Trail Network. Eric Kimmel noted that signs in the Bird Cage area need to be redone. The area was never good sparrow habitat and was kept artificially dry for 15 years. Before the ORV plan was completed, there was discussion of designating Zone 4 as an airboat area.

Bobby C. Billie (Council of the Original Miccosukee Simanolee Nation) said that one of the reasons the area was closed was the damage to the environment from ORVs. Airboats do not cause the birds to come back; they do not create food for animals. All of God's creation has a right to survive in this area. If you want to hunt, use your feet and walk.

Shannon Larsen (Ancient Trees) said that not just the sparrow, but its habitat was important. Adaptive management should not be used to change things such as critical habitat. She did not like seeing primary trails being used as secondary trails. Issues such as species and natural systems must be talked about in depth.

Matthew Schwartz (South Florida Wildlands Association) noted that the Stairsteps map is bigger and more extensive than the conceptual map in the ORV Management Plan. Ground truthing is key to the trails process. The Preserve is an irreplaceable resource. There needs to be a destination for every secondary trail.

Secondary Trail System. Mr. Ramos introduced the topic by explaining that the Committee was going to take a look at the work it had done, not to minimize or discount the effort that took place, but because 1) it is time to go back and see how the Turner River and Corn Dance trails are working, and 2) the judge's order in the recently concluded litigation contains statements on his interpretation on some aspects of what secondary trails are and are not. Mr. Ramos offered the following sideboards: 1) The judge felt that the NPS did not do a good job in defining destinations for the Bear Island secondary trails. 2) The judge felt that secondary trails are a means of getting from a primary trail to another place and are not intended to be ridden up and down on. The NPS asked the ORVAC to take a look at the work that has been done to make sure it meets the definition in the plan and that it is aligned with the observations made by the

judge in his ruling. As a starting point, the Committee should look at the memo that it had presented to the NPS and, in the context of the judge's ruling, determine if the memo should be validated as is or if it should be edited for NPS consideration.

Mr. DeGross had asked the Committee to review the judge's order, the Bear Island map after the judge's decision, the 2010 recommendation memo made to the NPS on secondary trails, and the trail implementation section of the ORV plan. Ms. Clark proposed walking through the 2010 memo point by point. She also noted a memo from Mr. Adornato containing suggested changes to the memo.

Mr. Gutierrez objected to the Committee being asked to look at a memo from the same law firm representing Mr. Adornato and the National Parks Conservation Association in litigation he has filed against the NPS. Mr. Gutierrez felt that Mr. Adornato should either recuse himself from the current discussion because he is in violation of the ORVAC charter, or he should drop his lawsuit. Mr. Adornato responded that the current Addition Lands litigation has nothing to do with secondary trails or any subject that has ever come before the ORVAC. Discussion about Mr. Adornato's participation followed, and the following points were noted:

1. The NPS should get a legal opinion on Mr. Adornato's role on the ORVAC.
2. Diversity of perspectives is valuable to the Committee's work.
3. Members should serve as individuals, not as representatives of organizations.
4. Mr. Adornato's job gives him a valuable perspective.
5. The ORVAC has a lot of work to do and wants to minimize distraction.
6. Diversity provides balance and legitimacy.
7. Financial involvement is a conflict of interest.

Public Comment—Secondary Trails. Jules Mazzarantani stated that the reason for the ethics declaration is so that the Committee can do its work without a hammer hanging over its head. He supports the ORVAC's memo concerning secondary trails. He said that the judge made an error in his ruling concerning the ORV plan. Secondary trails should not be designated for a single use or purpose. The judge has given some latitude in his ruling.

Lyle McCandless (Big Cypress Sportsmen's Alliance, Big Cypress Stakeholders' Group) said that 400 miles of trails falls short of an adequate trail system, and the legal definition of secondary trails should be used to end up with a reasonable trail system. Secondary trails are intended to fill in the gaps to allow direct in-and-out access to areas of the Preserve that cannot be accessed by the primary trail system. He will post his suggested secondary trail definition online for the Committee's use. He would like to see Mr. Gutierrez or another attorney dig deeper into the issue with Mr. Adornato.

Shannon Larsen (Ancient Trees) said that the judge made his decision from all the material that was provided to him, and she agreed with his decision. She felt that some members of the Committee treated Mr. Adornato unfairly.

Bobby C. Billie felt that the Committee was unjustly trying to eliminate a member who has a lot of sense. Both sides of issues need to be considered. Money is killing life. The lawsuit took place because the NPS violated regulations.

Matthew Schwartz (South Florida Wildlands Association) wanted to hear what the Committee had to say about secondary trails in light of the judge's decision. He does not sue the ORVAC but the decision makers such as NPS. The purpose of the Preserve is the protection of resources.

Shelly Mascaro (Everglades Conservation and Sportsmen's Club) wanted the discussion of the culvert for the Club separated from the other Zone 3 and 4 issues.

Stairsteps Trail Network—Further Discussion. Mr. Wilson questioned whether the language in the ORV plan concerning only primary trails in Zone 4 could be changed to allow secondary trails, since many of the primary trails actually fit the secondary trail definition. Dr. Everham stated that the issue will require further discussion. The Committee approved the landowner request recommendation but deferred approval of the remaining recommendations until the next meeting. Consideration of the 2010 secondary trail memo was deferred to the next meeting.

General Public Comment. Lyle McCandless (Big Cypress Sportsmen's Alliance, Big Cypress Stakeholders' Group) noted that in the Bear Island lawsuit, taxpayers are paying the NPS attorneys for defending the suit for six years as well as the plaintiffs' attorney's fees. Mr. McCandless plans to reach out to the U.S. Sportsmen's Alliance, Safari Club International, and several Florida state officials and travel to Washington, DC, to take issue with these frivolous lawsuits that breed additional lawsuits and add substantially to the nation's deficit.

Shannon Larsen questioned the timing of the attacks on Mr. Adornato. This conversation should have involved the Superintendent, not the ORVAC.

Bobby C. Billie said that the non-Indians are on his land and in his "living room." If you don't like who the Indians are or what they are doing, you can pack up and leave. God's creation is corrupted and will get worse.

Matthew Schwartz (South Florida Wildlands Association) will be putting together an extensive comment letter on secondary trails. He believes the layout of secondary trails does not meet the terms of the ORV management plan as reaffirmed by the judge's decision. He believes the secondary trail definition and the plan are clear.

Approval of Minutes. Ms. Macdonald noted that on page 2, third line down, it says that "the judge said that more environmental analysis should have been done." Added to this should be "appropriate procedures should have been completed." The minutes were approved as amended.

The meeting adjourned at 8:00 p.m.

Attachment

BICY ORVAC Corn Dance/Stairsteps Subcommittee

Meeting Report

July 21, 2012

Attendance

NPS staff: Bob DeGross

ORVAC members: Wayne Jenkins, Subcommittee Chair; Dennis Wilson; Robin Barnes; John Adornato; Barbara Jean Powell; David Denham

Members of the public invited to share their specific knowledge of the area being evaluated: Charles Barley, Frank Denninger, and Eric Kimmel

Call to order

Wayne Jenkins called the meeting to order and thanked attendees for participating.

Bob DeGross reminded attendees that at the last meeting the subcommittee made recommendations which he submitted in writing to the full committee at the last ORVAC meeting (see May 5, 2012 memo). He indicated that management issues would be the primary focus of this meeting.

Bear Island litigation

A discussion was held related to a recent court ruling associated with the Bear Island litigation. Several attendees questioned the implications of the ruling on the past five years of ORVAC work, as well as future work, and any committee recommendations derived from those efforts. For example, there is a perception among some subcommittee members that the Judge's ruling appears to invalidate ORVAC's consensus recommendations related to secondary trails (including limited loop trails) and multi-use recreation destinations.

Several attendees questioned how ORVAC can fulfill its charge of reaching consensus recommendations knowing there is a possibility issues will later be brought before the Court by a fellow committee member(s) or the organization with whom the committee member(s) is employed.

Subcommittee recommendation: The subcommittee recommended that NPS provide a legal opinion on ORVAC's function to date and into the future.

Stairsteps trail system

Mr. DeGross distributed a list of five questions he had prepared for the subcommittee:

1. Should there be connectivity between Zones for those vehicles that are allowed in those zones?

Subcommittee recommendation: There needs to be connectivity between Zone 3 and Zone 4 for vehicles permitted in those units.

2. If there is connectivity should wheeled ORVs and airboats be allowed on all trails in Zone 3. If yes, how should it be managed?

Subcommittee recommendation: Yes, all trails should be open to whatever type of vehicle is permitted in the unit, with operator discretion dictating the type of vehicle.

3. Should we have wheeled ORV trails only and Airboat trails only?

Subcommittee recommendation: No

4. Should we consider having trails in the portion of Stairsteps Zone 4 that was closed due to proposed designation of critical habitat for Cape Sable seaside sparrow (CSSS) in light of USFWS having rejected critical habitat designation?

Subcommittee recommendation: Yes, the closed sparrow zone should be evaluated for reopening through adaptive management using all available science, including existing science and new, if needed.

5. Should we consider a distinction between primary and secondary trails in Zone 4?

Subcommittee response: This is not addressed in the ORV Plan, but it would be good to do.

Dual vehicle use in Stairsteps Zone 3

Mr. DeGross reminded the subcommittee that, unlike Zone 4 which the ORV Plan designated for airboat use only, Zone 3 is designated for wheeled vehicles and airboats. Subcommittee members observed that it seems inconsistent with this dual-use designation that the ORV Plan limits Sig Walker access site to airboat access only. Historically, this site was used by wheeled vehicles and airboats.

Subcommittee recommendation: Through adaptive management the Sig Walker access site should be open to wheeled vehicles and airboats.

Issues related to access to destinations and trail mileage

Primary and secondary trail mileage to date: Mr. DeGross remarked that preserve-wide the trail mileage as mapped today would consist of approximately 362 miles of primary trails and 175 miles of secondary.

Paces Dike: The subcommittee discussed in depth how to address trails at Paces Dike which had previously been recommended as a secondary trail for the entire rectangular length. Mr. Adornato expressed the opinion that as depicted it meets the criteria for primary trails, and he would support them as such. He observed that three primary trails lead up to it, and it is six miles long. Mr. Kimmel pointed out important destinations that must be accommodated and urged subcommittee members to think outside the box to develop solutions.

Subcommittee preferred recommendation (full consensus) for Paces Dike destinations:

- a) No north/south primary trail on the east side
- b) All east/west segments designated as primary with short secondary trails to the areas known as Doc Wolf and Green Head
- c) A backup subcommittee recommendation was agreed upon with minority opposition
- d) A 2.50 mile secondary trail swinging north through the farm field to the historical Doc Wolf site
- e) A one mile primary trail from the red primary trail to the eastern airboat trail
- f) A 1.4 mile secondary trail from the eastern airboat trail to Green Island

Stairsteps Zone 2: Mr. Adornato expressed concern with the length of trails and a loop trail depicted in the draft recommendation. Approximately 10 miles of primary trails are permitted, of which 8.3 miles have been identified, as well as 8.7 miles of secondary trails. Adornato also objected to trails across what

appeared on the map to be prairie habitat. A subcommittee member identified the prairie as having rock substrate.

Ms Powell called attention to the omission of her recommendation at a prior subcommittee meeting for a trail from the Skillet South access site providing access to George's Sawmill.

Mr. Adornato objected to several destinations referenced, observing that the ORV Plan stipulates "destinations such as camp sites". He expressed the opinion that hunting and bird watching are not destinations. Mr. Jenkins responded that hunting is not a destination; however a place to hunt is a destination. Ms. Powell reminded the subcommittee that ORVAC had concurred that destinations are preferred locations from which preserve visitors could disburse on foot for multiple purposes.

Subcommittee recommendation related to Zone 2 trails: After having provided desired destinations, the subcommittee recommended that BICY staff determine the shortest, most direct route that meets the agency's criteria.

Landowner access accommodations for Everglades Conservation and Sportsman Club (ECSC): Ms. Powell reported on a request by the ECSC to reopen access for their membership to the gated culvert crossing immediately across Loop Road from their club grounds. She said this crossing was constructed during an ESCA/NPS/Everglades Protection Society partnership to minimize congestion at the Monroe Station access site. The request is for this access site and the short existing secondary trail leading to the designated primary trail to be available for club membership only. It is unlikely that a member of the general public would want to use it as there would be no public parking facilities for tow vehicles. Club members would provide volunteer labor to assist with reopening this trail.

Subcommittee position regarding providing landowner access at the culvert crossing built for that purpose, in order to minimize congestion at Monroe Station: The subcommittee has no objections to NPS moving forward with the club's request.